

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

TORRANCE L. COTTON,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 4:19-CV-812-JAR

**MEMORANDUM AND ORDER**

This matter is before the Court on self-represented movant Torrance L. Cotton's motion to recall the mandate or correct the Court's decision dated August 12, 2020. The government has not responded to the motion and the time for doing so has passed. For the following reasons, movant's motion will be denied.

**Background**

On July 16, 2020, movant filed a motion to alter, correct, and reconsider the Court's Memorandum and Order dated June 25, 2020. On August 10, 2020, the government responded to movant's motion, stating that it did not oppose the motion to the extent that movant sought to correct a one-sentence clerical error in the Court's Memorandum and Order dated June 25, 2020. The government opposed the motion in all other respects.

On August 12, 2020, the Court granted movant's motion to the extent it sought to correct the one-sentence clerical error regarding drug quantities in the Memorandum and Order dated June 25, 2020. The Court denied the motion in all other respects, specifically to the extent movant sought to alter, correct, or reconsider the Court's finding that movant's motion for leave to file his § 2255 motion was untimely. On August 12, 2020, the Court also issued an Amended

Memorandum and Order correcting the clerical error in the Memorandum and Order dated June 25.<sup>1</sup> See ECF Nos. 10 and 11.

### Discussion

On August 24, 2020, movant filed the instant motion, seeking to “recall the mandate or correct [the Court’s] decision.” By this new motion, movant asks the Court to vacate its decision dated August 12, 2020 because the Court did not allow movant time to file a reply brief in support of his motion to alter, correct and reconsider the Court’s Memorandum and Order dated June 25, 2020. Despite the fact that the Court granted movant’s motion in part, movant now asks the Court to allow him to file his reply brief in support of his prior motion, and then issue “a new decision . . . after full and fair consideration.” Movant’s motion will be denied.

The Court acted swiftly on August 12, 2020 when it realized its Memorandum and Order dated June 25, 2020 contained a clerical error. This was brought to the Court’s attention through movant’s motion dated August 8, 2020. The government did not oppose correction of this clerical error. Because the Court was granting movant’s motion to correct this clerical error, it did not require a reply brief from movant. The Court addressed the clerical error in its Memorandum and

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<sup>1</sup> In its Amended Memorandum and Order dated August 12, 2020, the Court states: “This matter is before the Court on movant’s request for leave to file out of time a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. The government has responded to the motion, *and movant has filed a reply.*” ECF No. 11 (emphasis added). In the instant motion, movant takes this italicized phrase out of context and states that the Court incorrectly stated that movant had filed a reply in support of his motion to alter, correct, and reconsider the Court’s Memorandum and Order dated June 25, 2020. The Court has not stated that movant filed a reply brief in support of his motion to alter, correct, and reconsider the Court’s Memorandum and Order dated June 25, 2020; the Court stated that movant filed a reply in support of his request for leave to file out of time a motion under 28 U.S.C. § 2255.

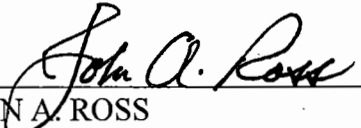
Order dated August 12, 2020, and simultaneously issued an Amended Memorandum and Order correcting the clerical error.

The Court has carefully reviewed movant's reply brief. Movant's reply brief attempts to argue the merits of movant's § 2255 motion, which the Court has previously found to be untimely. The Court has already denied movant's motion to reconsider to the extent it sought to reconsider this timeliness analysis. As the Court stated in its Order dated August 12, 2020: "To the extent movant's instant motion seeks to alter, correct, and reconsider the consideration and analysis of movant's timeliness argument in its June 25, 2020 Memorandum and Order, the motion will be denied." Because movant's reply brief does not alter the Court's analysis of movant's timeliness argument, the Court will deny movant's "motion to recall the mandate or correct [the Court's] decision."

Accordingly,

**IT IS HEREBY ORDERED** that movant's motion to recall the mandate or correct the Court's decision is **DENIED**. [ECF No. 12]

Dated this 9<sup>th</sup> day of October, 2020.

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE